



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2307768
Applicant Name: Dick Connelly for Port of Seattle
Address of Proposal: 2715 East Marginal Way South

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit for future installation of three, one-story temporary modular structures that total approximately 1,564 square feet (810 square feet office, 490 square feet lunch area and changing room, and 264 square feet restrooms). The installations of the modular units are accessory to an existing Port of Seattle cargo terminal. The project includes construction of a 6 foot by 42 foot access ramp. Accessory parking for 20 vehicles will be provided adjacent to modular units.

The following approval is required:

- **Shoreline Substantial Development Permit** to establish use for accessory office related use to an existing cargo / passenger terminal, water-dependent use. (SMC Chapter 23.60.840).

SEPA DETERMINATION: ☒ Exempt ☐ DNS ☐ EIS

☐ DNS

☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity Description

The development site is a leased portion of land at the Port of Seattle's Terminal 28/Pier 27, which is a portion of the expansive Terminal 30 site. Terminal 30 is a waterfront lot that fronts along East Marginal Way South between South Forest Street and South Holgate Street, south of

downtown Seattle. Bordering the development site to the west is the East Waterway watercourse that receives discharge from the Duwamish Waterway and Green-Duwamish River into southeast Elliott Bay. The terminal occupies an area of approximately 37 acres upland containing cargo marshalling yard, marine cargo, vessel and barge berth areas, and cruise ship terminal facilities. An additional 4.8 acres of concrete piling supported pier area supplements the upland area. The project development area is leased to Crowley Marine Services and covers approximately 34,800 square feet. The project area is located near Terminal 30's southeast corner and is wholly located within the 200 foot shoreline district boundary line, with indirect access to East Marginal Way South. East Marginal Way South stretches out along the north/south axis at this location and is a two-lane arterial with center left turn-lane, improved with a hard surface roadway. One sidewalk abutting the development site is located in the East Marginal Way South rights-of-way. The sidewalk begins just north of the Terminal 30's gatehouse and extends the entire length of the site. Running parallel and east of East Marginal Way South are Railroad tracks and east of that is the Alaskan Freeway (SR 99).

The terminal is located in an Urban Industrial (UI) shoreline environment and is zoned General Industrial 1 with an 85-foot height limit (IG-1/U85). The site is flat, composed almost entirely of imported fill and mostly covered with concrete and asphalt. Terminal 30 is devoted to water-dependent, marine industrial use. The existing marine terminal is used for transfer of container and barge cargo, for loading/unloading cruise ship passengers and cruise materials, and for vessel and barge moorage. Several structures are located on the site, including a yard office building, seasonal passenger terminal/cargo terminal, a maintenance structure, warehouse, and two entry gates. Surface parking for 827 vehicles are provided at the terminal along with associated loading and unloading berth areas for passengers. The entire site is classified as an Environmentally Critical Area due to its potential for liquefaction during a major earthquake event.

Development in the vicinity is typical of industrial zoned areas; a mix of warehouse use, manufacturing, commercial industrial parks, retail, principal use parking, etc. Starbucks headquarters is located to the east of the development site. The area is flat with excellent access to the rail, highway, and water transportation systems to move products efficiently throughout the region. Pedestrian activity is limited near the development site due to the nature of businesses around the development site.

Project Description

The applicant proposes to install temporary modular structures on an upland area at the central portion of the south cargo yard area at Terminal 30. For the purpose to protecting workers from unfavorable weather conditions and providing conveniences such as office space, break room, and changing room. The modular structures will be sited within the 200 foot UI shoreline boundary district. Three modular structures are proposed: (1) 320 square foot office unit; (2) 980 square foot office/changing room/lunchroom; and (3) 264 square foot bathroom unit. Each modular will arrive as a trailer unit and be fitted with appropriate tie-downs, utility connections, and accessible ramps and stairs. The modular units will be aligned adjacent to each other and connected by an elevated walkway. No grading, fill or alteration to existing paved and drained cargo area is proposed. Additionally, no alteration to the existing storm drain system is proposed.

It is expected that approximately twenty working days will be required for the installation and placement of proposed alterations. The objective is to continue water-dependent marine industrial/cargo uses and activities at the south cargo yard area during the installation period. The project improvements involve no additional impervious surface or over water construction. The existing curb cuts would be maintained during and after the construction improvement period along East Marginal Way South. Accessory parking for 20 vehicles will be added adjacent to modular units, bringing the total parking stalls at the development site to 847. No over water construction is proposed with this application

Public Comment:

Date of Notice of Application:	December 18, 2003
Date End of Comment Period:	January 16, 2004
# Letters	0

No public comments were received during the public comment period, which ended on January 16, 2004.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: "*A substantial development permit shall be issued only when the development proposed is consistent with:*"

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC.*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. The Policies and Procedures of Chapter [90.58](#) RCW

Chapter [90.58](#) RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy seeks to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water. The proposed improvements to Terminal 30 would not adversely impact the state-wide interest of protecting the resources and ecology of the shoreline, and the improvements would provide for the continued operation of a facility that is dependent upon its location in a shoreline of the state. The subject application is consistent with the procedures outlined in RCW [90.58](#).

B. The Regulations of this Chapter

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on ensuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter [23.60](#), that also incorporates the provisions of Chapter [173-27](#), WAC. [Title 23](#) of the Municipal Code is also referred to as the Land Use and Zoning Code. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions which have also been set forth in the Land Use Code.

In evaluating requests for substantial development permits, the Director must determine that a proposed use and subsequent development meets the relevant criteria set forth in the Land Use Code. The Shoreline Goals and Policies, part of the Seattle [Comprehensive Plan](#), and the purpose and location criteria for each shoreline environment must be considered. A proposal must be consistent with the general development standards of SMC [23.60.152](#), the specific standards of the shoreline environment (SMC 23.60. 840) and underlying zoning designation, any applicable special approval criteria, and the development standards for specific uses.

The proposed development actions occur on land classified as a waterfront lot (SMC [23.60.924](#)) and is located within an Urban Industrial (UI) shoreline environment. The proposed improvements are associated with a marine cargo facility and as such are a permitted use in the UI shoreline environment and the underlying IG-1 zone.

Seattle Comprehensive Plan - Shoreline Policies

All discretionary decisions in the shoreline district require consideration of the Shoreline Goals and Policies, which are part of the Seattle Comprehensive Plan's [Land Use Element](#), and consideration of the purpose and location criteria for each shoreline environment designation contained in SMC [23.60.220](#). The policies support and encourage the establishment of water dependent uses existing at Terminal 28/30 (please refer to Land Use Policies L339 and L342). An area objective for this portion of the Duwamish waterways is to reserve waterfront lots for major port terminals while at the same time to protect and enhance migratory fish routes and feeding areas (please refer to Area Objectives for Shorelines of Statewide Significance, Policy L354 1d). The purpose of the Urban Industrial (UI) environment as set forth in Section [23.60.220 C11](#) is to provide for efficient use of industrial shorelines by marine cargo facilities, such as Terminal 28/30.

The proposed improvements to Terminal 28/30 would facilitate the continued and enhanced operation of an existing marine cargo facility and seasonal passenger terminal, a use supported by both the purpose of the UI shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan. The proposed installation of three modular structures to support accessory office, restrooms, and employee break/changing rooms to an existing cargo terminal would create a more efficient and safer facility for a continued water dependent use. Additionally, one barrier-free access ramp is proposed to serve all structures.

SMC [23.60.152](#) - Development Standards for all Environments

These general standards apply to all uses in the shoreline environments. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses are subject to the following:

- A. The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- B. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.
- C. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage.
- D. The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
- E. All shoreline developments and uses shall minimize any increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catch basins or settling ponds, interceptor drains and planted buffers.
- F. All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.
- G. All shoreline developments and uses shall control erosion during project construction and operation.
- H. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.
- I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.

- J. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.
- K. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.
- L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.
- M. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.
- N. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.
- O. Navigation channels shall be kept free of hazardous or obstructing development or uses.
- P. No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.

As proposed and as conditioned below, the project complies with the above shoreline development standards. As conditioned, the short term construction related activities should have minimal effects on migratory fish routes. Long term effects are minor and do not warrant further conditioning.

The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. In conjunction with this effort, DPD developed a Director's Rule, [2000-16](#), to apply Best Management Practices (BMPs) to prevent erosion and sedimentation from leaving construction sites or where construction will impact receiving waters. Due to demolition, installation of modular structures and other construction activities, the potential exists for impacts to the Duwamish and Elliott Bay. Therefore, approval of the substantial development permit will be conditioned to require application of construction best management practices (BMPs). Completion of the attachment to the Director's Rule and adherence to the measures outlined in the attachment shall constitute compliance with BMP measures.

SMC 23.60.160 - Shoreline Public Access

For purposes of this review only, DPD has agreed that the scope of work contained on a land area of approximately 34,800 square feet at a development site approximately 4.8 acres is not subject to providing shoreline public access. The estimated value of the construction activity is \$60,000.00 and the cost of installing a public access would be unreasonably disproportionate to the cost of the proposed development. (SMC 23.60.160.H.3.a)

SMC [23.60.870](#) - Development Standards for the UI Environment

The proposal conforms to all of the development standards for the UI environment.

C. The Provisions of Chapter [173-27](#) WAC

WAC [173-27](#) establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW [90.58](#). It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the State's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter [23.60](#) is also consistency with WAC [173-27](#) and RCW [90.58](#).

Conclusion

SMC Section [23.60.064E](#) provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter [23.60](#), and with RCW [90.58.020](#) (State policy and legislative findings).

Thus, as conditioned below, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

SHORELINE SUBSTANTIAL DEVELOPMENT CONDITIONS

Permanent for the Life of The Project:

1. Appropriate Best Management Practices (BMP) shall be employed during all activities at the site, including boat and ship repair work, to prevent debris, toxic material and/or other deleterious matter from entering East Waterway during such activities.
2. Debris, toxic material and/or other material that enters the water during the life of the project shall be removed immediately and disposed of at the appropriate upland facility.

Signature: (signature on file) Date: April 1, 2004
Bradley Wilburn, Land Use Planner
Department of Planning and Development